

STATE OF MICHIGAN
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES
Before the Commissioner of Financial and Insurance Services

Bene L. Benedict
Petitioner

v

**Office of Financial and Insurance
Services**
Respondent

Case No. 07-653-L
Docket No. 2007-499

For the Petitioner:

Bene L. Benedict
10098 South Ridge Drive
Caledonia, MI 49316

For the Respondent:

William Peattie (P48004)
Office of Financial and Insurance Services
611 W. Ottawa, 3rd Floor
Lansing, MI 48933

Issued and entered
this 12th day of September 2007
by Linda A. Watters
Commissioner

FINAL DECISION

The Administrative Law Judge (ALJ) issued a Proposal for Decision (PFD) dated July 18, 2007. The ALJ recommended that the Commissioner deny Petitioner's application for licensure. Respondent filed exceptions on August 3, 2007 agreeing with the ALJ's recommendation but stating objections to the ALJ's analysis supporting his recommendation.

Findings of Fact 1 through 6 and 9 in the PFD are in accordance with the preponderance of the evidence and are adopted and made part of this final decision. Findings of Fact 7 and 8 are, in reality, conclusions of law and, in any case, are not required for the proper resolution of this matter. Finding of Fact 10 is not required for the proper resolution of this matter. Findings of Fact 7, 8, and 10 are not adopted.

The Conclusions of Law in the PFD are also not required for the proper resolution of this matter and are not adopted. The only issue necessary to resolve this case is whether the Petitioner has met the minimum licensing requirements of Section 1205(1) of the Michigan Insurance Code of 1956, ("Code") as amended, MCL 500.1205(1). The section provides:

(1) A person applying for a resident insurance producer license shall file with the commissioner the uniform application required by the commissioner and shall declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. An application for a resident insurer producer license shall not be approved unless the commissioner finds that the individual meets all of the following:

* * *

(b) Has not committed any act that is a ground for denial, suspension, or revocation under section 1239.

Section 1239(1)(f) of the Code states:

In addition to any other powers under this act, the commissioner may place on probation, suspend, revoke, or refuse to issue an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions for any 1 or more of the following causes:

* * *

(f) Having been convicted of a felony.

If the Petitioner has been convicted of a felony, no further inquiry into questions of good moral character or similar areas is permitted by the Insurance Code licensing statute. At the hearing, the Respondent established that the Petitioner had been convicted of a felony, which mandates denial of an insurance producer license. The question of licensure ends here; the Commissioner does not have the discretion to approve an application where an applicant has been convicted of a felony. A discussion of good moral character is not needed or relevant to the licensing of an insurance producer. The Occupational License for Former Offenders Act (Act 381 of 1974,

MCL 338.41 *et seq.*) cited by the ALJ has not applied to insurance producer licensing since March 1, 2002 when Section 1204 of the Insurance Code was amended to discontinue “good moral character” as a licensing criterion for insurance producers. (See Act 228 of 2001.)

Even if the Occupational License for Former Offenders Act did apply to insurance producer licensing, it has not been alleged that Petitioner’s felony conviction shows that the Petitioner lacks good moral character. Rather, the Petitioner’s felony conviction shows he does not meet the minimum licensing requirements of Section 1205(1) of the Code.

The only necessary conclusion of law is that the application “shall not be approved” by the Commissioner under MCL 500.1205(1) in light of the felony conviction.

ORDER

Therefore, it is ORDERED that the Petitioner’s application for licensure is denied.